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Complaint - 1

# UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WASHINGTON

#### AT TACOMA

CAROL LAMBRECHT,	) Case No.
Plaintiff,	) COMPLAINT
VS.	) )
PINNACLE RECOVERY, INC.,	) JURY TRIAL DEMANDED
Defendant.	)
	)

#### I. NATURE OF ACTION

1. This is an action for damages brought by an individual consumer for Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (hereinafter "FDCPA") and of the Revised Code of Washington, Chapter 19.16, both of which prohibit debt collectors from engaging in abusive, deceptive, and unfair practices. Plaintiff further alleges a claim for invasion of privacy by intrusion, ancillary to Defendant's collection efforts.

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Complaint - 2

#### II. JURISDICTION

2. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d).

### III. PARTIES

- 3. Plaintiff, Carol Lambrecht, is a natural person residing in the State of Washington, County of Clark, and City of Vancouver.
- 4. Plaintiff is a "consumer" as defined by the FDCPA, 15 U.S.C. § 1692a(3), and a "debtor" as defined by RCW § 19.16.100(11).
- 5. At all relevant times herein, Defendant, Pinnacle Recovery, Inc., ("Defendant") was a company engaged, by use of the mails and telephone, in the business of attempting to collect a "debt" from Plaintiff, as defined by 15 U.S.C. §1692a(5).
- 6. Defendant is a "debt collector" as defined by the FDCPA, 15 U.S.C. § 1692a(6), and a "licensee," as defined by RCW § 19.16.100(9).

#### IV. FACTUAL ALLEGATIONS

7. At various and multiple times prior to the filing of the instant complaint, including within the one year preceding the filing of this complaint, Defendant contacted Plaintiff in an attempt to collect an alleged outstanding debt. Defendant's conduct violated the FDCPA and RCW § 19.16 in multiple ways, including but not limited to:

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- a. Repeatedly making telephone calls to Plaintiff in connection with collection of a debt allegedly belonging to someone else, and consistently refusing to stop this behavior after numerous requests by Plaintiff (§ 1692d));
- b. Threatening to take an action against Plaintiff that cannot be legally taken or that was not actually intended to be taken, including threatening to continue calling despite the fact Plaintiff had notified Defendant that she was not the alleged debtor, citing as a reason that people lie (§ 1692e(5));
- c. Where Defendant had not yet made an attempt to contact Plaintiffs counsel or had not given Plaintiffs counsel sufficient time to respond to the initial attempt to communicate with Plaintiffs counsel, and where Plaintiffs counsel had not given Defendant permission to contact Plaintiff directly, communicating with Plaintiff directly after learning that Plaintiff is being represented by counsel (§ 1692c(a)(2)).
- 9. Defendant's aforementioned activities, set out in paragraph 8, also constitute an intentional intrusion into Plaintiff's private places and into private matters of Plaintiff's life, conducted in a manner highly offensive to a reasonable person. With respect to the setting that was the target of Defendant's intrusions, Plaintiff had a subjective expectation of privacy that was objectively reasonable under the circumstances.
- 10. As a result of Defendant's behavior, detailed above, Plaintiff suffered and continues to suffer injury to Plaintiff's feelings, personal humiliation, embarrassment, mental anguish and emotional distress.

Complaint - 3

# COUNT I: VIOLATION OF FAIR DEBT COLLECTION PRACTICES ACT

11. Plaintiff reincorporates by reference all of the preceding paragraphs.

#### PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

- A. Declaratory judgment that Defendant's conduct violated the FDCPA;
- B. Actual damages;
- C. Statutory damages;
- D. Costs and reasonable attorney's fees; and,
- E. For such other and further relief as may be just and proper.

## **COUNT II: VIOLATION OF WASHINGTON COLLECTION AGENCY**

# ACT, WHICH IS A PER SE VIOLATION OF THE WASHINGTON CONSUMER PROTECTION ACT

12. Plaintiff reincorporates by reference all of the preceding paragraphs.

#### PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

- A. Actual damages;
- B. Discretionary Treble Damages;

Complaint - 4

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- C. Costs and reasonable attorney's fees,
- D. For such other and further relief as may be just and proper.

## **COUNT III: COMMON LAW INVASION OF PRIVACY BY INTRUSION**

13. Plaintiff reincorporates by reference all of the preceding paragraphs.

#### PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

- A. Actual damages
- B. Punitive Damages; and,
- C. For such other and further relief as may be just and proper.

Respectfully submitted this 20th day of May, 2009.

s/Jon N. RobbinsJon N. RobbinsWEISBERG & MEYERS, LLCAttorney for Plaintiff

Complaint - 5